



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Jennifer Warner
Director

MEMORANDUM

DATE: June 30, 2015

TO: Chief Circuit and District Judges
Family Division Judges
Circuit and District Court Administrators
County Clerks

FROM: Jim Inloes, Management Analyst
Bobbi Morrow, Management Analyst
Jodi Latuszek, Management Analyst

RE: 2014 PA [457](#), [458](#), [459](#)

Effective July 1, 2015, the list of crimes for which a DNA sample is required to be collected is expanded. Under the new acts, individuals **arrested** for any felony or an offense that would be a felony if committed by an adult must provide a DNA sample to the county sheriff or the arresting law enforcement agency, unless the Michigan State Police (MSP) already have a sample that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

In addition, persons **convicted** of (or found responsible for) any of the following misdemeanors must also provide a sample for:

1. A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.
2. A violation of section 335a(1) of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.
3. A violation punishable under section 451(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.
4. A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution. [MCL 750.520m(1)(b)]

If, on or after July 1, 2015, an individual is **convicted of, or found responsible for**, one or more felonies or one or more of the listed misdemeanors above, the court must order the individual to pay an assessment of \$60. MCL 28.176(5). The DNA assessment is in addition to any fine, costs, or other assessments ordered by the court and must be listed separately on the adjudication order or judgment of sentence. MCL 28.176(6). The assessment is not required if a sample was already on file with MSP at the time of the individual's arrest. MCL 28.176(3). To accommodate this information, forms MC 200 (Felony Set), DC 225 (Complaint and Warrant), and JC 04 (Petition for Delinquency Proceedings) have been modified, requiring the prosecuting official to check an option that indicates a DNA sample was already on file with MSP.

Numerous forms (linked below) have been revised to: (1) indicate a finding by the court that a sample was already on file with MSP before the individual's arrest and that an assessment is not required, and (2) allocate space for recording the \$60 assessment when required. These forms are:

- [MC 219](#) and [JC 71](#) (Judgment of Sentence, Commitment to Jail)
- [CC 219b](#) and [JC 72](#) (Judgment of Sentence, Commitment to Corrections Department)
- [CC 236](#) (Order Committing Juvenile to Department of Health and Human Services)
- [JC 25](#) (Order of Disposition, Commitment or Referral to Department of Health and Human Services)
- [MC 242](#) (Assignment to Youthful Trainee Status)
- [JC 14a](#) and [JC 14b](#) (Orders of Disposition for Delinquency Proceedings)
- [MC 294](#) and [JC 73](#) (Orders Delaying Sentence)

Please note that MC 219, CC 219b, and MC 294 will not be programmed on your case management system until next year because the forms will be changed again at the end of the year to comply with another act pertaining to concealed pistol licensing. See 2015 PA 3; MCL 28.421 *et seq.* Forms DC 243, CC 243a, and JC 74 (Order of Probation) have been revised to include reference to an ordered DNA assessment.

All or part of the assessment may be suspended if the court determines that the person is unable to pay the assessment. MCL 28.176(6). All courts must create a new cash code for the DNA assessment. If you have questions about creating a new cash code, please contact your case management system provider. Judicial Information Systems (JIS) will be sending instructions to their users soon. The revised distribution, under MCL 28.176(8), is:

1. Ten percent to the court's funding unit.
2. Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.
3. Sixty-five percent to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

A court order is not a condition for collection of the DNA sample because law enforcement is authorized to collect DNA samples at the time of arrest. If for some reason the sample has not been collected before the time of conviction, the court should order that it be taken. Revised form MC 283, Order for DNA Sample, can be used. If a defendant is acquitted of the charge requiring the collection of a DNA sample or if the charge is otherwise dismissed, it is the responsibility of the arresting law enforcement agency and the prosecution to notify MSP to destroy the sample. See MCL 28.176(11) and (17). If, however, the conviction is reversed by an appellate court, it is the responsibility of the sentencing court to order MSP to destroy the sample. MCL 28.176(10).

If you have any questions, please feel free to contact Jim Inloes at 517-373-0122 or inloesj@courts.mi.gov, Bobbi Morrow at 517-373-2173 or morrowb@courts.mi.gov, or Jodi Latuszek at 517-373-2451 or latuszekj@courts.mi.gov.